

Decision for dispute CAC-UDRP-105761

Case number	CAC-UDRP-105761
Time of filing	2023-09-06 10:46:26
Domain names	SCHNEIDERELECTRIC.COM

Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	SCHNEIDER ELECTRIC SE
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	Michelle Acosta
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns several trademarks including the terms "SCHNEIDER ELECTRIC" including:

- The international trademark SCHNEIDER ELECTRIC n° 715395 registered on 15 March 1999;
- The international trademark SCHNEIDER S ELECTRIC n° 715396 registered on 15 March 1999;
- The EUTM SCHNEIDER ELECTRIC n° 1103803 registered on 12 March 1999.

The Complainant is also the owner of many domain names which include the trademark SCHNEIDER ELECTRIC such as <schneiderelectric.com> registered on 4 April 1996.

FACTUAL BACKGROUND

The Complainant is a French industrial group founded in 1871, and now doing business internationally. It manufactures products for power management, automation, and related solutions. The Complainant's corporate website can be found at www.schneider-electric.com. The Complainant is listed on the NYSE Euronext and the French CAC 40 stock market index. In 2022, the Complainant revenues amounted to 34.2 billion euros.

The disputed domain name <schneiderelectric.com> was registered on 24 July 2023 and redirects to a parking page. The MX

servers are configured for the disputed domain name. We have no information about the Respondent other than the name Michelle Acosta and the address in Dallas, Texas.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant states that the disputed domain name <schneiderelectric.com> is confusingly similar to its trademark SCHNEIDER ELECTRIC. The addition of the letter "l" in the trademark constitutes an obvious misspelling of the Complainant's trademark SCHNEIDER ELECTRIC and is Typosquatting. Previous panels have found that the slight spelling variations does not prevent a domain name from being confusingly similar to the Complainant's trademark (CAC Case No. 103960, SCHNEIDER ELECTRIC SE v. Michele Swanson).

The Complainant says the Respondent is not identified in the Whois database as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name (for instance the Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com>). Further, the Respondent is not licensed, affiliated with nor authorized by, the Complainant and no rights can arise from typosquatting which is evidence that a respondent lacks rights and legitimate interests in the domain name. Forum Case No. 1597465, The Hackett Group, Inc. v. Brian Hems / The Hackett Group.

As to Bad Faith, the misspelling was intended to be confusingly similar with the Complainant's trademark. Given the distinctiveness of the Complainant's trademarks and their reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks. The incorporation of a famous mark into a domain name, coupled with an inactive website, can evidence of bad faith registration and use (see WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows and WIPO Case No. D2000-0400, CBS Broadcasting, Inc. v. Dennis Toeppen).

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Under paragraph 4(a) of the UDRP, the Policy, a complainant can only succeed in administrative proceedings if the panel finds:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

(ii) the respondent has no rights or legitimate interests in respect of the domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

A complainant must prove that each of these three elements are present.

The Complainant has Rights in its registered mark and trade name, SCHNEIDER ELECTRIC. The name and mark are well known. The registration of the disputed domain name was deliberate—with only one character different from the mark, an extra i—so that it is <schneiderelectric.com>. This is an obvious case of typosquatting. The selection of the .com is relevant insofar as it suggests the domain is official. Many panels regard that as impersonation, that is, the respondent is holding out that it is the complainant.

As to the second limb, here, there is no legitimate use or right on the face of the matter. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. See the Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com>. The Respondent has not come forward to explain its selection of the disputed domain name. Passive holding is fact sensitive and the factors in the other limbs are highly relevant and here determinative. A complainant is only required to make out a prima facie case that the respondent lacks rights or legitimate interests and then the burden shifts to the respondent to show it has rights or legitimate interests in the domain name. If it fails to do so, the complainant is deemed to have satisfied the limb in paragraph 4(a) (ii). See WIPO Case No. D2003-0455, Croatia Airlines d. d. v. Modern Empire Internet Ltd. The Complainant has discharged its burden on this limb.

The WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows is apposite. This is sometimes known as the passive Bad Faith test. Where a famous mark is incorporated into a domain name without any legitimate reason or explanation and the respondent does not come forward, Bad Faith can often be inferred. Here, we have slightly more as the configuration of the MX records suggest that the registration was for a purpose and that purpose was likely email use for impersonation and possibly phishing. This takes the issue of Bad Faith clearly over the line.

The Panel finds that the disputed domain name was registered and is used in Bad Faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. SCHINEIDERELECTRIC.COM: Transferred

PANELLISTS

Name	Victoria McEvedy
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DATE OF PANEL DECISION 2023-10-09

Publish the Decision
